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November 9, 2009

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

**RE: Nebraska Pub. Service Commission and Kansas Corp. Commission Petition
for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring
that State Universal Service Funds May Assess Nomadic VoIP Intrastate
Revenues; WC Docket No. 06-122 (“Petition”)**

Dear Ms. Dortch,

Today, James Lister and I, on behalf of the Nebraska Public Service Commission (“NPSC”) and the Kansas Corporation Commission (“KCC”), met with Austin Schlick, FCC General Counsel and Diane Griffin Holland, Chris Killion and Joe Palmore of the General Counsel’s Office as well as Vickie Robinson of the Wireline Competition Bureau, to discuss the above-captioned Petition.

We summarized the comments that have been presented in the proceeding. We also discussed a menu of procedural options that the Commission can use if it decides to issue a substantive ruling that states are not preempted from imposing state universal service contribution requirements on nomadic VoIP providers. These included Declaratory Ruling, Declaratory Ruling with prospective application only and Rulemaking. We discussed strengths and weaknesses of each option. We noted that Commissioner Anne Boyle had recently met with Commissioners and Staff to stress the importance of resolving the matter quickly.

In addition, we discussed how state contribution assessments are handled for CMRS providers. We noted that states follow different methods of assessing contributions and coordinate cross-state issues among themselves. We urged that an assessment method ruling not hold up a substantive determination on the preemption issue.

We discussed VoIP providers’ potential liability if the FCC issued a Declaratory Ruling that states were not preempted from imposing state universal service fund assessment requirements. We noted that even if the FCC ruling applied retroactively, the NPSC would not collect assessments from Vonage for past due amounts. The federal court has enjoined the NPSC from making those collections. Also, the NPSC would not go back and collect from other

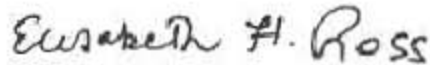
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nomadic VoIP providers. After the Court issued its injunction, the NPSC informed other nomadic VoIP providers that if they filed an affidavit attesting that their service was nomadic in nature and similar to Vonage's service, they could cease making state contributions pending resolution of the issue. We noted that only a few state commissions have issued assessments and discussed why it would not be manifestly unjust to uphold those existing assessments. The nomadic VoIP providers who have been assessed have been on notice of their potential liability.

It is very important that the FCC declare that states had legitimate authority to make those collections, and that it issue a ruling soon. In other states, some nomadic VoIP providers have been paying into the state universal service fund, and states have not been enjoined from those collections. Also, we expect the impact on state universal service funds to grow substantially over the next few years, as more customers switch to VoIP, and providers can make technical changes to transform their voice service to nomadic VoIP.

Finally, as explained more fully in the Petition, we highlighted the importance of keeping the case narrowly focused on nomadic VoIP.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Elisabeth H. Ross". The signature is written in a cursive, slightly slanted style.

Elisabeth H. Ross
Counsel for the Nebraska Public Service
Commission and Kansas Corporation Commission

cc: Austin Schlick
Joe Palmore
Diane Griffin Holland
Chris Killion
Vickie Robinson